

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEBRASKA

ELAINE JAMES, M.D.,)	
)	
Plaintiff,)	8:09CV112
)	
v.)	
)	
THE STATE OF NEBRASKA;)	MEMORANDUM AND ORDER
NEBRASKA BOARD OF MEDICINE &)	
SURGERY; JOANN SCHAEFER, M.D.,)	
in her personal and official)	
capacity; HELEN MEEKS, in her)	
personal and official)	
capacity; DAVID DRYBURGH,)	
CARL V. SMITH, M.D.; VONN E.)	
ROBERTS, M.D.; LARRY E.)	
BRAGG, M.D.; MICHAEL SITORIUS,)	
M.D.; ARTHUR WEAVER, D.O.;)	
MERLE HENKENIUS; KAREN)	
HIGGINS, M.D., in their)	
personal capacities and their)	
official capacities as members)	
of the Nebraska Board of)	
Medicine and Surgery;)	
NEBRASKA DEPARTMENT OF)	
HEALTH AND HUMAN SERVICES,)	
DIVISION OF PUBLIC HEALTH,)	
an agency in the State of)	
Nebraska,)	
)	
Defendants.)	
)	

This matter is before the Court on defendants' Motion to Stay Discovery (Filing No. [68](#)), defendants' Motion for Leave to File Amended Answer (Filing No. [70](#)), defendants' Motion to Continue Progression Dates (Filing No. [77](#)), and plaintiff's Motion to Compel (Filing No. [78](#)). Defendants seek to stay discovery and continue the progression of the case so that they may assert a defense of qualified immunity. Defendants

anticipate filing a motion for summary judgment on the issue of qualified immunity by May 10, 2011, the current deadline for summary judgment motions. Plaintiff's motion to compel requests that defendants respond to interrogatories plaintiff served upon defendants.

Qualified immunity generally protects government officials from the burden of discovery. *Marksmeier v. Davie*, 622 F.3d 896, 903 (8th Cir. 2010). After reviewing the arguments of the parties and the relevant law, the Court finds good cause exists for continuing the progression of this case until after a determination is made on defendants' claims of qualified immunity. Fed. R. Civ. P. 16(b)(4). In addition, the Court finds defendants have shown cause for amending their answer. *Sherman v. Winco Fireworks, Inc.*, 532 F.3d 709, 716 (8th Cir. 2008).

IT IS ORDERED:

1) Defendants' Motion to Stay Discovery (Filing No. [68](#)) is granted.

2) Defendants' Motion for Leave to File Amended Answer (Filing No. [70](#)) is granted; defendants shall have until May 9, 2011, to file their amended answer.

3) Defendants' Motion to Continue Progression Dates (Filing No. [77](#)) is granted (except the deadline for summary judgment motions). Assuming the resolution of defendants' motion

for summary judgment does not dispose of the case fully, the Court will conduct a scheduling conference to establish an amended progression order.

4) Plaintiff's Motion to Compel (Filing No. [78](#)) is denied.

DATED this 2nd day of May, 2011.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court